

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

BERNARD ROSS HANSEN, and
DIANE RENEE ERDMANN,

Defendants.

Case No. CR18-0092-RAJ

**JOINT REQUEST FOR STATUS
CONFERENCE REGARDING
FEASIBILITY OF TRIAL DATE DUE
TO COVID-19 PANDEMIC**

NOTED ON MOTION CALENDAR:
FRIDAY, MAY 7, 2021

The United States Attorney's Office and defendants Ross Hansen and Dianne Erdmann submit this status conference statement in relation to the upcoming Zoom status conference hearing with the Court regarding the feasibility of the trial date in this multi-defendant criminal trial currently scheduled to commence on July 6, 2021.

The parties have reviewed the most recent General Order (04-21) ("Order") issued by the Court and are generally aware of the current state of the public health crisis in Washington State. With this information, the parties are concerned that substantial time and effort over the next eight weeks will be devoted to preparing for the trial of this case even though there may be a likelihood that the matter will be continued due to continuing public health concerns arising from the ongoing COVID-19 pandemic.

JOINT REQUEST FOR STATUS
CONFERENCE REGARDING FEASIBILITY
OF TRIAL DATE DUE TO COVID-19
PANDEMIC
(Case No. 18-cr-0092-RAJ) - 1

LAW OFFICES
CALFO EAKES LLP
1301 SECOND AVENUE, SUITE 2800
SEATTLE, WASHINGTON 98101-3808
TEL (206) 407-2200 FAX (206) 407-2224

1 According to the general order, all criminal trials scheduled to occur before June 30, 2021
 2 are continued unless an individual judge orders otherwise. Order 2:8-9. That date is only one
 3 week before the current trial date in this matter. The Order states that the daily number of positive
 4 cases has significantly decreased and that vaccines have been and will be made available more
 5 readily in the coming months. That said, the Order also provides that “[u]ntil the majority of the
 6 public has received the vaccine and been fully vaccinated, limiting the size and frequency of
 7 gatherings remain critical to preventing serious injury and death from COVID-19.” *Id.* 2:1-4.

8 The Order provides that in-person criminal trials will start on May 17, 2021. Only one trial
 9 will occur at the Seattle courthouse at a time. *Id.* 2:18-19. The Order continues: “The Court will
 10 be strictly limiting the number of people that can physically attend these proceedings.” *Id.* 2:15-
 11 16.

12 While the effect of the Order on the trial of this matter set for July 6, 2021 is not plainly
 13 evident, the Order’s language raises the substantial possibility that the trial may not go forward as
 14 scheduled. Criminal trials will only have begun again in the Seattle courthouse for approximately
 15 8 weeks by July 6. It is unclear to counsel for the parties whether the backlog of cases
 16 (particularly in-custody cases) will be such that the trial of this matter will be continued to allow
 17 for those other cases involving in-custody cases to proceed first. Given that only one trial will be
 18 proceeding at a time in the courthouse, it may take some time before that backlog of cases is
 19 resolved.

20 In addition, the trial of this matter will require a substantial number of persons to be present
 21 in the Courtroom during the proceedings. In addition to the Court and its staff, there will be at
 22 least 12 and up to 14 jurors present. Counsel for each defendant expects to need four to six
 23 persons in the courtroom during the trial (that amounts to another 8 to 12 persons). The
 24 government expects that it will need to have an additional four persons in the courtroom. As a
 25 result, it is likely that more than 30 people will be present in the courtroom during this trial,

considering that witnesses, U.S. Marshal's Office personnel, and perhaps others may attend. The trial is expected to last three to four weeks.

Given that the trial date is eight weeks away, the parties will need to immediately begin gear up for trial by finalizing trial strategy, engaging in witness preparation, preparing witness cross-examination outlines, and engaging in the multitude of necessary pretrial tasks to be prepared for this multi-week and complex criminal trial. The government and the defense will need to make arrangements for witnesses to appear at trial, some of whom will be traveling from outside the district. It would be inefficient, if not wasteful of court and government resources, to prepare for trial of this case over the next eight weeks if the trial is likely ultimately to be delayed.

For the foregoing reasons, the parties request that the Court, at the status conference, address whether the trial will be delayed by the continuing uncertainties caused by the COVID-19 pandemic.

DATED this 7th day of May, 2021.

CALFO EAKES LLP

By: s/Angelo J. Calfo

Angelo J. Calfo, WSBA #27079

Patty Eakes, WSBA # 18888

Anna F. Cavnar, WSBA # 54413

Henry C. Phillips, WSBA #55152

1301 Second Avenue, Suite 2800

Seattle, WA 98101

Telephone: (206) 407-2200

Fax: (206) 407-2224

angeloc@calfoeakes.com

fpattye@calfoeakes.com

henryp@calfoeakes.com

Attorneys for Defendant Bernard Ross Hansen

TESSA M. GORMAN

Acting United States Attorney

By: s/Brian Werner

Brian Werner

Benjamin Diggs

Assistant United States Attorneys

700 Stewart Street, Suite 5220

Seattle, WA 98101

Telephone: (206) 553-7970

brian.werner@usdoj.gov

Attorneys for United States

///

1 CORR CRONIN LLP

2 By: s/Steven W. Fogg

3 Steven W. Fogg, WSBA No. 23528
4 Benjamin C. Byers, WSBA No. 52299
5 1001 Fourth Avenue, Suite 3900
6 Seattle, Washington 98154
7 (206) 625-8600 Phone
8 (206) 625-0900 Fax
9 sfogg@corrchronin.com
10 bbyers@corrchronin.com

11 AOKI LAW PLLC

12 By: s/Russell M. Aoki

13 Russell M. Aoki, WSBA No. 15717
14 AOKI LAW PLLC
15 1200 Fifth Avenue, Suite 750
16 Seattle, Washington 98101
17 (206) 624-1900 Phone
18 (206) 442-4396 Fax
19 russ@aokilaw.com

20 *Attorneys for Defendant Diane Renee*
21 *Erdmann*

22 JOINT REQUEST FOR STATUS
23 CONFERENCE REGARDING
24 FEASIBILITY OF TRIAL DATE DUE TO
25 COVID-19 PANDEMIC - 1
(Case No. 18-cr-0092-RAJ)

LAW OFFICES
CALFO EAKES LLP
1301 SECOND AVENUE, SUITE 2800
SEATTLE, WASHINGTON 98101-3808
TEL (206) 407-2200 FAX (206) 407-2224